



**Affidavit of Van Daele Stephen Mabrito**

Exhibit A: A screen shot entitled "Quote.DOC – Microsoft Word" which depicts a template file that is utilized in the Quote system for printed quotes.

5 This file was created on Wednesday, July 1<sup>st</sup>, 1998 at 09:21:53 AM.

Exhibit B: Two screen shots entitled "Microsoft Excel – golfturfpricing.xls [Read Only]" which depicts specifications and templates of the original quote system. This file was created on Wednesday, July 1<sup>st</sup>, 1998 at 09:21:44 AM.

10 Exhibit C: A copy of a portion of the original specifications and layout schematics for the quote system. This copy is dated 8/28/1998.

Exhibit D: A two page copy of an original portion of a worksheet which is utilized in the quote system. This Equipment Vol. Workbooks portion is dated 8/1/98.

15 Exhibit E: A two page copy of a portion of the professional specifications for formulas utilized in the computerized quotation system. This copy is dated 12/22 and was originally created 12/22/1998.

Exhibit F: A three page copy of basic instructions for using the computerized quotation system. This document is dated 3/29/99 and was created on  
20 03/29/1999.

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Exhibit G: A four page computer screen shot entitled "Microsoft Excel – Equipment T1" which depicts another equipment books template which is utilized in the computerized quotation system. These screen shots were created on Friday, February 4<sup>th</sup>, 2000 at 11:43:04 AM.

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NO. 967

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Practitioner's Bucket No. 162-002

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Van Daele Stephen Nabrito

Application No.: 09/ 636,696

Group No.: 3629

Filed: 8/11/2000

Examiner: Oulette, Jonathan P.

For: Computerized Quotation Generation System

Assistant Commissioner for Patents  
Washington, D.C. 20231DECLARATION OF PRIOR INVENTION IN THE UNITED STATES  
OR IN A NAFTA OR WTO MEMBER COUNTRY  
TO OVERCOME CITED PATENT OR PUBLICATION (37 C.F.R. § 1.131)

## PURPOSE OF DECLARATION

1. This declaration is to establish completion of the invention in this application in the United States, at a date prior to March 31, 2000, that is the effective date of the prior art:

- ☐ publication  
☒ patent

that was cited by the

- ☒ examiner.  
☐ applicant.

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## CERTIFICATE OF MAILING/TRANSMISSION (37 C.F.R. § 1.6(a))

I hereby certify that this correspondence is, on the date shown below, being:

## MAILING

☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents,  
Washington, D.C.

Commissioner for Patents  
P.O. Box 1450  
Arlington, VA 22202-1450

Date: 2/4/2004

## FACSIMILE

☐ transmitted by facsimile to the Patent and Trademark Office.

Signature

Richard Kendra

(Type or print name of person certifying)

(Declaration of Prior Invention in the United States or in a NAFTA or WTO Member Country to Overcome Cited Patent or Publication—37 C.F.R. § 1.131 [D-32]—page 1 of 5)

**NOTE:** When a claim of an application or a patent under reexamination is rejected under 35 U.S.C. 102(a) or (b) or as U.S.C. 103 based on a U.S. patent to another or others which is prior art under 35 U.S.C. 102(a) or (b) and which substantially shows or describes but does not claim the same patentable invention, as defined in 37 C.F.R. 1.601(a), or on reference to a foreign patent or to a printed publication, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43 or 1.47, may submit an appropriate oath or declaration to overcome the patent or publication. The oath or declaration must include facts showing a completion of the invention in this country or in a NAFTA or WTO member country before the filing date of the application or the U.S. patent issued, or before the date of the foreign patent, or before the date of the printed publication. When an appropriate oath or declaration is made, the patent or publication cited shall not bar the grant of a patent to the inventor or the confirmation of the patentability of the claims of the patent, unless the date of such patent or printed publication is more than one year prior to the date on which the inventor's or patent owner's application was filed in this country." 37 C.F.R. § 1.131(h)(1).

**NOTE:** 37 C.F.R. § 1.131 is not applicable to a rejection based on a U.S. patent that CLAIMS the rejected invention.

2. The person making this declaration is (are):

- ☒ the inventor(s).
- ☐ only some of the joint inventor(s)  
(and a suitable excuse is attached for failure of the omitted joint inventor(s) to sign)
- ☐ the party in interest  
(and a suitable explanation as why it is not possible to produce the declaration of the inventor(s) is attached)

### FACTS AND DOCUMENTARY EVIDENCE

3.

**NOTE:** "The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application." 37 C.F.R. § 1.131(b).

To establish the date of completion of the invention of this application, the following attached documents and/or models are submitted as evidence:

(check all applicable items below)

- ☒ sketches
- ☐ blueprints
- ☒ photographs
- ☒ reproduction(s) of notebook entries
- ☐ model
- ☐ supporting statement(s) by witness(es) (where verbal disclosures are the evidence relied upon)

**NOTE:** While conception is the mental part of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisites means themselves and their interaction must also be comprehended. See *Margenthaler v. Scudder* 1887 C.D. 724, 81 O.G. 1417. See also M.P.E.P. § 715.07 and § 2136.04, 7th ed.

(Declaration of Prior Invention in the United States or in a NAFTA or WTO Member Country to Overcome  
Cited Patent or Publication—37 C.F.R. § 1.131 [2-32]—page 2 of 5)

From these documents and/or models, it can be seen that the invention in this application was made

- ☐ on \_\_\_\_\_
- ☒ at least by the date of 3/31/2000, which is a date earlier than the effective date of the reference.

NOTE: "If the dates of the exhibits have been removed or blocked off, the matter of dates can be taken care of in the body of the oath or declaration." M.P.E.P. § 715.07, 7th ed.

NOTE: "If the dates in the oath or declaration may be the actual dates, or, if the applicant or patent owner does not desire to disclose his or her actual dates, he or she may merely state that the acts referred to occurred prior to a specified date." M.P.E.P. § 715.07, 7th ed.

### DILIGENCE

NOTE: "Where there has not been reduction to practice prior to the date of the reference, the applicant or patent owner must also show diligence in the completion of his or her invention from a time just prior to the date of the reference continuously up to the date of the actual reduction to practice or up to the date of filing his or her application (filing constitutes a constructive reduction to practice, § 1.181)." M.P.E.P. § 715.07, 8th ed., rev. 8 (emphasis added).

NOTE: "A conception of an invention, though evidenced by disclosure, drawings, and even a model, is not a complete invention under the patent laws, and confers no rights on an inventor, and has no effect on a subsequently granted patent to another, UNLESS HE OR SHE FOLLOWS IT WITH REASONABLE DILIGENCE BY SOME OTHER ACT, such as an actual reduction to practice or filing an application for a patent. *Automatic Weighing Mach. Co. v. Pneumatic Scale Corp.*, Limited 1908 O.D. 466, 159 O.G. 391, M.P.E.P. § 715.07, 7th ed.

"Conception in the mental part of the inventive act, but it must be capable of proof, as by drawings, complete disclosure to another person, etc. In *Margenthaer v. Scudder*, 1897 O.D. 724, 81 O.G. 1417, it was established that conception is more than a mere vague idea of how to solve a problem; the means themselves and their interrelation must be comprehended also." M.P.E.P. § 715.07, 7th ed.

NOTE: Only diligence before reduction to practice is a material consideration. The "gap of time between the completion or reduction to practice of an invention and the filing of an application thereon" (2) parts Marc 74 (U.S.P.Q. 386) is not relevant to an affidavit or declaration under 37 C.F.R. § 1.181. M.P.E.P. § 715.07(a), 7th ed.

Attached is a statement establishing the diligence of the applicants, from the time of their conception, to a time just prior to the date of the reference, up to the:

- ☐ actual reduction to practice.
- ☒ filing of this application.

### TIME OF PRESENTATION OF THE DECLARATION

(complete (a), (b) or (c))

- (a) ☐ This declaration is submitted prior to final rejection.
- (b) ☒ This declaration is submitted with the first response after final rejection, and is for the purpose of overcoming a new ground of rejection or requirement made in the final rejection.
- (c) ☐ This declaration is submitted after final rejection. A showing under 37 C.F.R. § 1.116(b) is submitted herewith.

Declaration of Prior Invention in the United States or in a NAFTA or WTO Member Country to Overcome  
Cited Patent or Publication—37 C.F.R. § 1.181 [P-63]—page 3 of 6

**DECLARATION**

6. As a person signing below:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

**SIGNATURE(S)**

7.

(complete A or B below)

A. Inventor(s)

Full name of sole or first inventor Van Daele Stephen Mabrito

Inventor's signature *Van Daele S. Mabrito*

Date 2-04-04 Country of Citizenship United States

Residence 204 Antler Dr., San Antonio, TX 78213

Post Office Address same as above

Full name of second joint inventor, if any not applicable

Inventor's signature \_\_\_\_\_

Date 2/4/04 Country of Citizenship United States

Residence \_\_\_\_\_

Post Office Address \_\_\_\_\_

(Use added page for signature by additional inventors)

Number of pages added: \_\_\_\_\_

(Declaration of Prior Invention in the United States or in a NAFTA or WTO Member Country to Overcome  
Ofted Patent or Publication—37 C.F.R. § 1.131 [D-82]—page 4 of 6)

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I, Van Daele Stephen Mabrito, hereby swear and attest that the Exhibits A through K are copies from original notes, letter, specifications, screen shots, and the like which prove that my computerized quotation generation system was created and utilized at least before March 31, 2000. I also swear and attest that the dates which  
5 are printed upon these various Exhibits are true dates of creation and/or communication. I further swear and attest that the idea of my computerized quotation system was originally conceived on or before the earliest date which is shown in these Exhibits and the information within these Exhibits is true and correct.

10

Van Daele Stephen Mabrito

Van Daele Stephen Mabrito

Feb 4, 2004

Date